

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHLOÉ, S.A.S., J. CHOO LIMITED

Plaintiffs,

- against -

KEN CHEN a/k/a SHU CHEN a/k/a XIANG
CHEN, DANIEL DOE, GODDESS

TRADING d/b/a

GODDESSTRADING@HOTMAIL.COM,

LUXUNG GOODS, LUXURY GOODS,

TERRY DOE d/b/a

AZNTERRY911@HOTMAIL.COM, JASON

DOE d/b/a JARRY326@YAHOO.COM.CN,

FASHION HANDBAGS, BENNY DOE,

JEANCARLO DOE, JOSEPH a/k/a JOSE

DOE, SISI a/k/a CECI DOE, TOP LUXURY

HANDBAGS d/b/a

LUXURYHANDBAGS277@YAHOO.COM,

FRANCISCO DOE, BEN DOE, CARLOS

DOE, INSTYLE LUXURY HANDBAGS,

CORINA DOE a/k/a QIMIAO HU a/k/a QI

MIAO HU, KENNY DOE a/k/a YE GUO

a/k/a GUO Q YE, NEWCOME TRADING

d/b/a TOSCA, QUICK GLOBAL SHIPPING,

HOWARD EXPRESS SHIPPING, RANDY

DOE, and various JOHN and JANE DOES 1-

10 and XYZ COMPANIES

(UNIDENTIFIED),

Defendants.

Civil Action No.: 07 CV 6491 (WCP)

[FILED UNDER SEAL

PURSUANT TO 15 U.S.C. § 1116]

**DECLARATION OF HEIDI GARFIELD IN
SUPPORT OF REPLY TO DEFENDANTS**

NEWCOME TRADING, INC.'s d/b/a

TOSCA, NEW WEALTH, INC.'s d/b/a

TOSCA and TOSCA HANDBAGS'

OPPOSITION TO THE TEMPORARY

RESTRAINING ORDER, SEIZURE

ORDER, ORDER TO SHOW CAUSE FOR

A PRELIMINARY INJUNCTION,

EXPEDITED DISCOVERY ORDER,

ORDER RESTRAINING ASSETS AND

ORDER SEALING FILE and OPPOSITION

TO TOSCA DEFENDANTS' CROSS-

MOTION FOR RELEASE OF SEIZED

ASSETS

I, HEIDI S. GARFIELD, under penalty of perjury, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of New York and before the bar of the Southern District of New York. I am an associate at the law firm of Greenberg Traurig, LLP ("GT") and counsel to Chloé, S.A.S. and J. Choo Limited (collectively, "Plaintiffs"). I make this declaration in support of Plaintiffs' Reply to Defendants Newcome Trading, Inc.'s ("Newcome") d/b/a Tosca, New Wealth, Inc.'s

("New Wealth") d/b/a Tosca and Tosca Handbags's ("TH") (collectively, "Tosca Defendants") Opposition to Plaintiffs' *ex parte* Application for a Temporary Restraining Order, Seizure Order, Order to Show Cause for a Preliminary Injunction, Expedited Discovery Order, Order Restraining Assets and Order Sealing File as it applies to the Tosca Defendants and Opposition to the Tosca Defendants' Cross-Motion for Release of Seized Assets. If called as a witness, I could testify to the following upon personal knowledge and/or upon my review of GT's files on this matter.

2. Annexed hereto as Exhibit A is a true and correct copy of Newcome's Spring 2007 order form, on which it lists Tosca Defendants' products identical to Plaintiffs' authentic products ("Counterfeit Products") by codes, such as "Cloe" and assigns style numbers. Exhibit A was seized from Newcome's premises at 125 W. 30th Street, New York, New York on July 24, 2007.

3. Annexed hereto as Exhibit B is a true and correct copy of Newcome's invoices for the sale of Counterfeit Products identified by style number, including, for example style number 2370, which Newcome has assigned to Chloe counterfeits. Exhibit B was seized from Newcome's premises at 125 W. 30th Street, New York, New York on July 24, 2007.

4. Annexed hereto as Exhibit C is a true and correct copy of Tosca warehouse invoices from Los Angeles for Newcome. Exhibit C identifies Counterfeit Products by style number, including, for example style number 2990, which Newcome has assigned to Chloe counterfeits. Exhibit C was seized from Newcome's premises at 125 W. 30th Street, New York, New York on July 24, 2007.

5. Annexed hereto as Exhibit D is a true and correct copy of Newcome's handwritten notes regarding daily sales records. Exhibit D identifies specific places such as 421A, 251A and 265, which are also the same as street addresses for a number of Defendants in this matter. Exhibit D was seized from Newcome's premises at 125 W. 30th Street, New York, New York on July 24, 2007.

6. Annexed hereto as Exhibit E are true and correct copies of Newcome's handwritten notes regarding certain Counterfeit Products, identifying such products, in very small print, by code names such as "Chloe", "Cloe", "Chlo", "Chloe lock", "Jmy Ch", "JC" and "J Ch" and by sales and styles. Exhibit E was seized from Newcome's premises at 125 W. 30th Street, New York, New York on July 24, 2007.

7. Annexed hereto as Exhibit F is a true and correct copy of Newcome's account phone list, often identified only by first name, and including names and addresses such as "Kenny" and "251", which are consistent with Defendants in this matter. Exhibit F was seized from Newcome's premises at 125 W. 30th Street, New York, New York on July 24, 2007.

8. Annexed hereto as Exhibit G is a true and correct copy of Newcome's "June Summary", which identifies Newcome's sales and business from October 2006 through June 2007. Exhibit G specifically identifies "Chinatown" as approximately 30% of its market share per month and also identifies collections from various customers, including, for example, "251A", which is the address of Defendants in this matter. Exhibit G was seized from Newcome's premises at 125 W. 30th Street, New York, New York on July 24, 2007.

9. Annexed hereto as Exhibit H are true and correct copies of Newcome's sales receipts, including sales to "265 Canal", which is the address of Defendants in this action. Exhibit H also shows sales to "Ivy" and identical receipts for "Ivy" were also seized in the storage facilities operated by Quick Global Shipping at 25 Howard Street, New York, New York, also a Defendant in this action (*see infra*, Exhibit I). Exhibit H was seized from Newcome's premises at 125 W. 30th Street, New York, New York on July 24, 2007.

10. Annexed hereto as Exhibit I are true and correct copies of Tosca sales receipts, including sales to "Ivy". Identical receipts for "Ivy" were also seized at the premises of Newcome d/b/a Tosca at 125 W. 30th Street, New York, New York (*see supra* Exhibit H). Exhibit I was seized from the Quick Global Shipping Defendants' premises 25 Howard Street, New York, New York.

11. Annexed hereto as Exhibit J are true and correct copies of New Wealth's "sample sketches" Counterfeit Products identified by style number, including, for example style number 2990, which Tosca has assigned to Chloe counterfeits. Exhibit J was seized from New Wealth's premises at 3801 S. Broadway, Los Angeles, California.

12. Annexed hereto as Exhibit K are true and correct copies of invoices from Man Tung Handbag Products Factory, Ltd. To New Wealth for the sale of Counterfeit Products, identified by style number, including, for example style number 2370, which Tosca has assigned to Chloe counterfeits. Exhibit K was seized from New Wealth's premises at 3801 S. Broadway, Los Angeles, California.

13. Annexed hereto as Exhibit L are true and correct copies of bank deposit slips for New Wealth's account at Nara Bank, made by Newcome in New York. These

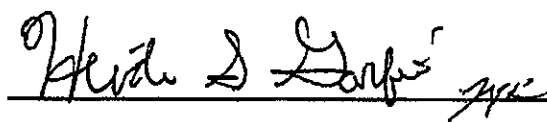
documents evidence a close relationship between Newcome and New Wealth. Exhibit L was seized from Newcome's premises at 125 W. 30th Street, New York, New York on July 24, 2007.

14. Annexed hereto as Exhibit M are true and correct copies of Tosca's inventory and shipping receipts for sales of Counterfeit Products made by Tosca LA to Tosca NY at 125 W. 30th Street, New York, New York, which is the address of Newcome. These documents evidence a close relationship between Tosca LA a/k/a New Wealth and Tosca NY a/k/a Newcome. Exhibit M was seized from Newcome's premises at 125 W. 30th Street, New York, New York on July 24, 2007.

15. Annexed hereto as Exhibit N is a true and correct copy of Newcome's inventory lists by product and style, on which it lists Counterfeit Products by codes, such as "JC" and assigns style numbers. Exhibit N was seized from Newcome's premises at 125 W. 30th Street, New York, New York on July 24, 2007.

16. Annexed hereto as Exhibit O are true and correct copies of pictures of authentic Chloe handbags. Pictures of Tosca Defendants' Counterfeit Products, *see* Exhibit J, as compared to Exhibit O, demonstrate the identical appearance of the bags. I pulled these pictures off of a website selling authentic Chloe bags, residing at the Uniform Resource Locator <http://www.chloe.com> on August 3, 2007.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on August 22 at New York, New York.

A handwritten signature in black ink, appearing to read "Heidi S. Garfield", is written over a horizontal line.

Heidi S. Garfield